

**Has the School Properly Tested Your Child?
Review of Article “All Areas of Suspected Disability”
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Mark C. Weber’s article, “All Areas of Suspected Disability,” published in 2013, provides valuable insight into the current state of the law on evaluating children with disabilities. If you have a child where an inadequate evaluation is an issue, this is worth reading. Courts have stepped into the area of tension between the requirements of IDEA and the low-level “reasonable benefit” standard we got from the Supreme Court, and usually held in favor of parents when children have not been evaluated properly.

The Individuals With Disabilities Education Act (IDEA) requires school districts to evaluate children “in all areas of suspected disability,” and also requires the IEP to contain measurable annual goals to meet each of these educational needs. Recently, courts have enforced these requirements when schools have failed to assess students adequately or have not established these goals and services.

This is a rather puzzling shift, given the long-ago Supreme Court case (*Board of Education v. Rowley*) that only required an education to give “some educational benefit.” Though the assessment provisions were enacted since then, the Supreme Court has not provided any further guidance based on the new statutes.

Mr. Weber suggests several possibilities for the new approach courts are taking. First, court may be trying to enforce IDEA beyond the limited reading of *Rowley*. Second, they may be working towards less restrictive and more inclusive placements. Third, the cases may be driven mainly by parents’ reactions to cutbacks in evaluations and services driven by financial strains on the school districts.

Mr. Weber does not pick one of these three possibilities as a definite answer, but the discussion in the paper is interesting because it explains some of the recent cases and how courts have decided for or against parents in seeking better evaluations.

You can find the article at:

http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2235090